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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,643	08/30/2001	Louis Benoit	P21366	7042

7055 7590 09/23/2003

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EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
3618	

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/941,643	BENOIT, LOUIS
	Examiner Hau V Phan	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 18 July 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-18 and 20-30 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-6, 13-18 and 20-27 is/are allowed.  
 6) Claim(s) 7-12 and 28-30 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 09/377,841.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                    6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. In view of the appeal brief filed on 7/18/2003, PROSECUTION IS HEREBY REOPENED. The new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. The finality of the rejection of the last office action is hereby withdrawn. Claims 7-12 and 28-30 are pending. An action on the merit's follows.

### ***Acknowledgment***

3. The amendment after final rejection filed on 5/29/2003 has been entered.

### ***Specification***

4. The specification is objected to because it needs to be update with respect to the status of the prior application No. 09/377,841 and 08/736,995. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 7-12 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Myers et al. (5,735,536).**

Myers et al. in figure 2, disclose a chassis (10) for an in-line skate. The chassis comprises at least one substantially horizontal foot bearing portion (15), one longitudinally extending lateral flange (26) extending downwardly from the foot-bearing portion. The lateral flange comprises a metal, which is at least partly including aluminum (col. 5, lines 57-63). Myers et al. also disclose one longitudinally extending medial flange (25) extending downwardly from the foot-bearing portion. The medial flange comprises a metal, which is at least partly including aluminum (col. 5, lines 57-63). Each of the lateral flange and the medial flange has a top portion and a bottom portion. Wherein both the top portions of the lateral flange and the medial flange being transversely spaced apart and both the bottom portions of the lateral flange and the medial flange being adapted to have attached therebetween at least one wheel. Myers et al. further disclose an intermediate portion or a stiffening rib (32), which is made by extruding. However, further embodiments may be formed by other suitable manufacturing process, including, but not limited to molding, casting, stamping and the

like (col. 5, lines 44-64). The intermediate portion or stiffening rib is substantially non-coplanar with the bottom portions of the lateral flange and the medial flange.

Regarding claim 8, Myers et al. disclose each of the lateral and medial flanges extending continuously between the top portion and the bottom portion via the intermediate portion (figure 1).

Regarding claim 9, Myers et al. disclose an in-line skate comprising at least one longitudinally extending foot-bearing portion (15) and one longitudinally extending lateral flange (26) extending downwardly from the foot-bearing portion. The lateral flange has a lateral top portion, and a lateral bottom portion adapted to have attached thereto at least one wheel. Myers et al. also disclose one longitudinally extending medial flange (25) extending downwardly from the foot-bearing portion having a medial top portion, and a medial bottom portion. The medial top and medial bottom portions adapted to have at least one wheel attached thereto. The lateral top portion spaced apart by a first distance from the medial top portion and the lateral bottom portion spaced apart by the first distance from the medial bottom portion. The lateral flange further has a lateral intermediate portion or a rib (32), which is made by extruding. However, further embodiments may be formed by other suitable manufacturing process, including, but not limited to molding, casting, stamping and the like (col. 5, lines 44-64). The lateral intermediate portion being substantially non-coplanar with the lateral bottom portion. The medial flange further has a medial intermediate portion or a rib (32, figure 3), which is made by extruding. However, further embodiments may be formed by other suitable manufacturing process, including,

but not limited to molding, casting, stamping and the like (col. 5, lines 44-64). The medial intermediate portion being substantially non-coplanar with the medial bottom portion (figure 3). The lateral intermediate portion spaced apart by a second distance from the medial intermediate portion. The second distance being different from the first distance (see attached figure 3).

Regarding claim 10, Myers et al. disclose the lateral flange extending continuously from the lateral top portion to the lateral bottom portion via the lateral intermediate portion. The medial flange also extends continuously between the medial top portion and the medial bottom portion via the medial intermediate portion.

Regarding claim 11, Myers et al. disclose the lateral intermediate portion or the rib having a longitudinally curved contour (figures 2 and 3).

Regarding claim 12, Myers et al. disclose an in-line skate comprising at least one longitudinally extending foot-bearing portion (15) and one longitudinally extending lateral flange (26) extending downwardly from the foot-bearing portion. The lateral flange has a lateral top portion, a lateral bottom portion adapted to have attached thereto at least one wheel and a lateral intermediate portion or a rib (32). Myers et al. also disclose one longitudinally extending medial flange (25) extending downwardly from the foot-bearing portion. The medial flange has a medial top portion, a medial bottom portion adapted to have attached thereto at least one wheel and a medial intermediate portion or a rib (32). The lateral top portion spaced apart by a first distance from the medial top portion and the lateral bottom portion spaced apart by the first distance from the medial bottom portion. Myers et al. also disclose at least one of the lateral intermediate portion and

the medial intermediate portion, which are made by extruding. However, further embodiments may be formed by other suitable manufacturing process, including, but not limited to molding, casting, stamping and the like (col. 5, lines 44-64). The lateral intermediate portion and the medial intermediate portion are substantially non-coplanar with the lateral bottom portion. The lateral intermediate portion spaced apart by a second distance from the medial intermediate portion, the second distance being different from the first distance (see attached figure 3).

Regarding claims 28-30, Myers et al. disclose the top portion of each of the lateral and medial flanges, which is adjacent to the foot-bearing portion.

***Allowable Subject Matter***

7. Claims 1-6, 13-18, 20-27 are allowed.

***Response to Arguments***

8. Applicant's arguments with respect to claims 7-12 and 28-30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on 703-308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

HP  
September 15, 2003

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*9/15/03*

*HAUPHAN*  
*VENT EXAMINER*